

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA

Nicholas James Duchateau,

Plaintiff,

v.

First Advantage Background Services
Corp.,

Defendant.

Case No. _____

NOTICE OF REMOVAL

Pursuant to 28 U.S.C. §§ 1331, 1332, 1441 and 1446, Defendant First Advantage Background Services Corp. (“First Advantage”) hereby removes the above-captioned litigation to the United States District Court for the District of Minnesota. As grounds for removal, First Advantage states as follows:

I. THIS COURT HAS REMOVAL JURISDICTION.

1. This litigation involves a Complaint by Plaintiff Duchateau against Defendant First Advantage. Exhibit A.

2. The Complaint is captioned in the Minnesota District Court for the Fourth Judicial District, Hennepin County, Minnesota. *Id.*

3. Federal law permits a Defendant that has been sued in state court to remove a “civil action … of which the district courts of the United States have original jurisdiction … to the district court of the United States for the district and division embracing the place where such action is pending.” 28 U.S.C. § 1441(a).

4. Federal law defines this Honorable Court’s “original jurisdiction” to include “civil actions arising under the Constitution, laws, or treaties of the United States.” 28 U.S.C. § 1331.

5. Plaintiff’s Complaint pleads three claims which arise under the “law[] ... of the United States.” Exhibit A at ¶¶ 46-51 (alleging breach of the Fair Credit Reporting Act (“FCRA”) at 15 U.S.C. § 1681e(b)); ¶¶ 52-57 (alleging breach of the FCRA at 15 U.S.C. § 1681k); ¶¶ 58-63 (alleging breach of the FCRA at 15 U.S.C. § 1681i).

6. Because these three claims arise under federal law, the Complaint presents a federal question under 28 U.S.C. § 1331 and falls within this Honorable Court’s original jurisdiction under 28 U.S.C. § 1441(a).

7. Because these three claims arise under federal law, “the entire action may be removed,” despite the fact that Plaintiff’s Complaint includes one claim under Minnesota law. 28 U.S.C. § 1441(c)(1)(B); *see also* Exhibit A at ¶¶ 64-68, alleging a violation of Minn. Stat. § 332.70.

8. Because Hennepin County, Minnesota is within this Honorable Court’s judicial district, this Honorable Court “embrac[es] the place where [this] action is pending” and has removal jurisdiction under 28 U.S.C. § 1441(a).

II. THIS NOTICE OF REMOVAL IS TIMELY.

9. A defendant must remove litigation to federal court “within 30 days after the receipt by the defendant, through service or otherwise, of a copy of the initial pleading setting forth the claim for relief upon which such action or proceeding is based.” 28 U.S.C. § 1446(b)(1).

10. First Advantage received Plaintiff's Complaint on October 30, 2018.

Exhibit B.

11. Because First Advantage is filing this Notice of Removal within 30 days from the date of receipt – i.e., by November 29, 2018, which is 30 days from October 30, 2018 – the Notice of Removal is timely.

III. THIS NOTICE OF REMOVAL IS PROPER.

12. In accordance with 28 U.S.C. § 1446 (b), attached hereto as Exhibit A are copies of “all process, pleadings, and orders served upon” First Advantage in this litigation.

13. Pursuant to 28 U.S.C. § 1446(d), the undersigned certifies that immediately after the filing of this Notice of Removal in this Court, a Notice of Removal (attached hereto as Exhibit C) will be filed in the Minnesota District Court for the Fourth Judicial District, Hennepin County, Minnesota, and will be served on all parties.

WHEREFORE, Defendant First Advantage gives notice that the above-captioned litigation has been removed from the Minnesota District Court for the Fourth Judicial District, Hennepin County, Minnesota to the United States District Court for the District of Minnesota.

Date: November 29, 2018

NILAN JOHNSON LEWIS PA

By: s/ David A. James

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*Local Counsel for Defendant First
Advantage*

CERTIFICATE OF SERVICE

I hereby certify that on November 29, 2018, I served the foregoing Notice of Removal on Plaintiff Nicolas Duchateau by sending the same to Plaintiff's counsel via email per agreement of counsel, addressed to:

John H. Goolsby, Esquire
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jgoolsby@goolsbylawoffice.com

/s/ David A. James _____

David A. James
Nilan Johnson Lewis PA